

NOT FOR PUBLICATION (For Upload to www.vid.uscourts.gov)

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

United States of America,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 1984-104
)	
Government of the Virgin Islands,)	
)	
Defendant.)	
)	

MEMORANDUM

On March 6, 2000, the Court denied the motion of Government of the Virgin Islands ["Virgin Islands"] for a second extension of time to March 9, 2000, to have the LBJ Pump Station on-line and fully operational. The Court referred the matter to Magistrate Judge Jeffrey L. Resnick to investigate and provide the Court with a Report and Recommendation on whether Pump No. 1 could be placed in immediate operation, as was asserted by the United States, or whether a temporary 4" line should be used until new valves can be installed, as was argued by the Virgin Islands.

Following an evidentiary hearing and a visit to the site on March 7, 2000, Judge Resnick submitted his Report and Recommendation, which the Court has adopted and incorporated in its attached order with one or two minor modifications. The Court simultaneously will vacate its order of March 6, 2000,

United States v. Government of the Virgin Islands
Civ. No. 1984-104
Memorandum
Page 2

denying the motion for an extension of time and, instead, grant the Virgin Islands' motion.

ENTERED this 13th day of March, 2000.

FOR THE COURT:

_____/s/_____
Thomas K. Moore
District Judge

ATTEST:
ORINN ARNOLD
Clerk of the Court

By: _____
Deputy Clerk

NOT FOR PUBLICATION (For Upload to www.vid.uscourts.gov)

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

United States of America,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 1984-104
)	
Government of the Virgin Islands,)	
)	
Defendant.)	
)	

ORDER

WHEREAS the Court has reviewed the Report and Recommendation submitted by Magistrate Judge Resnick following an evidentiary hearing and inspection of the LBJ Pump Station with the parties on March 7, 2000; and

WHEREAS the Court adopts the Recommendations made by Judge Resnick, as modified herein, it is hereby

ORDERED that:

1. The Government of the Virgin Islands ["Virgin Islands"] **SHALL** immediately notify the Court, the United States of America, and the Court Monitor, Dr. Rafael A. Rios, as soon as the 4" diversionary pump has been tested and advised whether it is capable of pumping the sewage through the 4" shunt around the pump station and through the forcemain up the hill as expected.

Assuming the 4" pump is up to the task:

2. The Virgin Islands **SHALL** use it to pump effluent from the LBJ Pump Station to Questa Verde.
3. The Virgin Islands **SHALL** immediately order a second 4" pump of equivalent power to be used as a back-up. To the extent that the Virgin Islands does not have sufficient funds readily available to quickly acquire the second pump, the Virgin Islands may use funds from the Corrective Action Trust Fund to facilitate the purchase, provided that the trust fund is reimbursed in full within ninety (90) days of this date.
4. The Virgin Islands **SHALL** obtain and fully install the nine new valves already on order by April 20, 2000.
5. The Virgin Islands **SHALL** immediately begin all necessary repairs and improvements to the wet well of the LBJ Pump Station and complete them by June 30, 2000.
6. The Virgin Islands **SHALL** immediately begin the necessary repairs on Pumps Nos. 2 and 3 and **SHALL** file a report by March 17, 2000, describing their condition and the date their repairs should be completed.
7. The Virgin Islands **SHALL** survey the LBJ Pump Station to identify what additional repairs, renovations, and

improvements must be made to bring it fully operational, and by March 31, 2000, **SHALL** file a report describing those necessary repairs, renovations, and improvements and the date they should be completed.

The Virgin Islands **SHALL** include in this report a detailed analysis of the feasibility and advisability of installing two additional pump isolation valves on the "intake manifold" while the LBJ Pump Station is currently off line, one between Pumps Nos. 1 and 2, and one new isolation valve between Pumps Nos. 2 and 3.¹

8. Copies of all reports filed with the Court **SHALL** be sent to attorneys Hewlett and Frankel, Pedro Modesto, and Dr. Rios.

9. The Virgin Islands **SHALL** hereafter provide **IMMEDIATE** detailed notice to the Court and the persons named in paragraph 8 of any unexpected matters that may delay compliance with the above deadlines.²

¹ It appears that as the pump station is currently configured, the entire pump station has to be completely shut down when any of the existing pump isolation valves fail. In other words, without these two additional isolation valves in the intake manifold, none of the pumps and their associated valves can be isolated from the others. The risk of future illegal bypasses can be minimized by installing these two valves during this time that the pump station presently is off line.

² These notices shall be provided in addition to the reports mandated by the Court's Order entered February 15, 2000.

10. A status hearing will be held before the undersigned on
a date to be scheduled during April 2000.

It is further

ORDERED that the Court's Order of March 6, 2000, is **VACATED**,
and that the Virgin Islands' second motion for an enlargement of
time is **GRANTED**.

ENTERED this 13th day of March, 2000.

FOR THE COURT:

_____/s/_____
Thomas K. Moore
District Judge

ATTEST:
ORINN ARNOLD
Clerk of the Court

By: _____
Deputy Clerk

Copies to:

Hon. Geoffrey W. Barnard
Hon. Jeffrey L. Resnick
Donald G. Frankel, Esq., Trial Attorney, Environmental
Enforcement Section, Environment and Natural Resources
Division, U.S. Department of Justice, One Gateway Center
Suite 616, Newton, MA 02458 **SEND VIA FACSIMILE: (617) 450-
0448**
Joycelyn Hewlett, Asst. U.S. Attorney, St. Thomas, VI
Pamela Tepper, Deputy Solicitor General, St. Thomas, VI **SEND VIA
FACSIMILE: 776-3494**
Michael Law, Asst. Attorney General, St. Thomas, VI **SEND VIA
FACSIMILE: 776-3494**

United States v. Government of the Virgin Islands
Civ. No. 1984-104
Order
Page 5

Copies to (continued):

Dr. Rafael A. Rios, Court Monitor, P.O. Box 195365,
San Juan, PUERTO RICO 00919 **SEND VIA FACSIMILE:**
(787) 282-0750

Mrs. Jackson
Julieann Dimmick, Esq.
Order Book